THE

Hindu Message

A Weekly Review of Indian and World-Problems from the Hindu Standpoint.

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The Hindu Message stands for

(1) Self-Government for India within the British Commonwealth,

(2) Co-operation with the different communities of India without prejudice to Hindu Dharma,

(3) Education of the Hindus as an integral part of the Indian Nation,

(4) Advancement of Material prosperity on a spiritual basis and

(5) Dissemination of pure Hindu Culture.

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Sandhya.

By K. P. Rajagopal.

O maiden-daughter of Day! Thou art clad dim
In a veil of dew, while bright and keen are flung
Thy charms in after-light yellow and young
In the striving colour of thy wistful light-red limb!
O bright eluder of love! Thy magical whim
Of swift etherial glare with flame-like death
Is never-claying desire of thy breath!
Around thy form grey twilight shadows swim
Like eager fish when sun-light kisses the seas!
My breath is light like Thy fair tresses that gleam
Blown on by the pleading woe of a fragile breeze!
And my dreams are coloured like thy dream
That is woven on the mountain clouds evening;
sublime,
Alas! They too must fade like thy own prime!

Great Thoughts.

There is nothing so powerful as humble mindedness. It is stronger even than a rock, and harder than adamant, and places us in a safety greater than that of towers and cities, being too high for any of the artillery of Satan.

Let us repent while we are yet upon the earth, for we are as clay in the hands of the artificer. The potter, when he makes a vessel, and it turns amiss in his hands, forms it anew; but if he had gone so far as to throw it into the furnace of fire, he can no more bring any remedy to it. So we, while we are in this world, should repent with our whole heart for whatsoever evil we have done in the flesh, while we have yet the time of repentance, that we may be saved of the Lord, for after we shall have departed out of this world we shall no longer be able either to confess our sins, or repent in the other.

It is easy in the world to live after the world's opinion; it is easy in solitude to live after our own. But the great man is he who in the midst of the crowd keeps with perfect sweetness the independence of solitude.

The storm looks like riot; it is a kind of quiet. It looks like chaos: it is perfect cosmos. It makes us think of chance; and chance, when we really think of it, resolves itself into unknown depths on depths of lnw.

In every life
There's a pause that is better than onward rush,
Better than hewing, or mightiest doing;
'Tis the standing still at sovereign will.
There's a hush that is better than ardent speech,
Better than sighing, or wilderness crying:
'Tis the being still at sovereign will.

Behaviour is a mirror in which every one shows his image.

Events of the Week.

We would fain hope that India—and especially South India—will produce a few men—one man at least—who would lead them in the sense that the Revd. U. Ottama leads the Nationalist party of Burma. Mr. Ottama is, it is stated, "fully alive to the *organic nature of the relationship that binds together Burma and India.*" It is through religion that this 'organic' unity is maintained between the two countries. No one has explained better than the eternally glorious Swami Vivekananda the real nature and ground of this 'Organic' unity and relationship. "If China, or Japan, or Ceylon follow the teachings of the Great Master, India worships him as God Incarnate on earth." This is also why, while the Mahant of the Buddha-Gaya temple with the support of the Hindu masses in North India is prepared always to offer every facility and help to Buddhists from all parts of the world to visit the scene of the Buddha's Enlightenment, he is refusing to hand over the temple and its forms of worship to them. We have enough trouble with the proseletysing faiths of the West, and the transfer of this sacred city and temple to the Buddhists will lead to similar complications and troubles with the fanatical specimens of humanity who are anxious to convert Indians to the Buddhist faith which no longer preserves its purity and has assumed strange and fantastic forms in the distant countries to which it has spread. Swami Vivekananda says:—'Sakya Muni was a Hindu; Sakya Muni came to preach nothing new ; the Hindus have accepted him as God and worship him,' &c. So long as the Buddhists from alien lands have all facilities given to them to offer their homage to the Buddha in their own way, they must not complain if the Hindus wish to retain their own established form of religious relationship to Him and one too which is based on our Puranic conceptions of Him as expounded in the Bhagavata, Vishnu-Purana, and other Hindu sacred authorities. This mutual tolerance is also the best means of preserving what so far-sighted a gentleman as the Buddhist monk, the Revd. Ottama, regards as the 'organic relationship' of unity and sympathy now existing between India and Burma. There may be fanatical Buddhists or Hindus. But neither Buddhism nor Hinduism is a religion of fanaticism. Hence, as Vivekananda said at the Parliament of Religions "Hinduism cannot live without Buddhism, nor Buddhism without Hinduism." This view is confirmed by the fact that the Vedanta religon in one of its aspects is often called, though erroneously, 'Crypto—Buddhism,' *i e.,* Buddhism in disguise. The truth is, that, Buddhism is included in Vedantism, which regards the universe as,—to use the blessed Bhagavan's words as given in the Gita—'the abode of sorrow, and impermanent.'

* * *

Mr Ronald Macneil, the Under-Secretary for Foreign Affairs, is said to have declared in a speech at Canterbury, that '*there was no disagreement whatever*' between Great Britain and France as regards the question of German reparations. That is exactly what we said last week. The *appearance of a disagreement* is maintained, however, for a purpose which at present remains hidden. 'The French believed that they could make Germany pay at once by being in control of some of her principal industries. The British were convinced that such action would produce almost nothing in the shape of immediate payment and would delay for a longer time the prospect of getting money out of Germany, and possibly might destroy it altogether.' Whichever policy is pursued and finally adopted, Germany must raise large loans in order to pay what she owes,—or she must turn recalcitrant and take the consequences. Another war, we fear, is bound to come on,—and the earlier the better for all parties and states in Europe. Europe must again revert to her primitive state of barbaric culture before the rest of the world can breathe. Especially, Asia which has always been the home of religious and spiritual life is being choked under the strain of Western and European materialism which breeds nothing but the Dead Sea fruit of aggressive commercial exploitation and dogmatic or traditional hypocricies passing as forms of Christianity. Moreover, we have no end of class jealousies and futile ambitions having their source in the maintenance of forms of government which, while they appear to favour the democratic life of freedom and equality of opportunity for all, are really calculated to maintain an alien bureaucracy in power and delay all true reforms leading to one form of self-determination or other among the peoples who are controlled or governed according to European methods and standards of governing dependencies, whether or not under a *mandate,* so-called, of the League of Nations.

* * *

We gladly welcome back to our midst the Right Honourable Mr. V. S. S. Sastri. Sir Dinshaw Wacha expresses the hope that he would soon be Governor of Bombay, and we trust that that hope is well-founded. But, we find it difficult to understand, from some of his utterances, what he has in his mind exactly. For instance, in his recent Madras lecture on the the League of Nations, he made *three* distinct statements.—(1) 'India is an Independent Member of the League of Nations. She takes her position there in her own right and not as a member of the British Empire ; we sit there just like the members of Great Britain : we fight and talk like them.' (2) 'It is the Government of India which we represent. That should be borne in mind by all representatives and critics of the League.' (3) 'Our delegation ought really to represent the public opinion of India and not the views of the Government of India or of Whitehall.' We should like to know whether he can bring up the question of India's self-determination before the League of Nations Assembly in accordance with the 'public opinion of India' as expressed in the meetings of the Liberal Federation, or of the Legislative Assembly of India, if not of the Congress ? Mr. Sastri must remember that the Government of India has been declared to be 'a subordinate branch of the British Government' at Whitehall, and that he only 'represents' the 'subordinate branch 'which is led and controlled in full by its suzerain. Let us not deceive ourselves by mere camouflages regarding the 'independence' which India enjoys as a member of the League of Nations ; Mr. Sastri 'might sit there just like the members of Great Britain, and *fight and talk* like them.' We, Indians, are no doubt past masters in '*fighting a talking' match.* We may even come out fairly in a writing match, but triumphs in such contests bring us no nearer the crossing of the whirlpool of slavish mentality where we remain tossed about to the amusement and contempt of mankind and to our own loss of self-respect in the attempt to surpass each other in the art of flattering the real rulers here and getting patted on the back by them. So long as the gaining of titles and offices forms the chief aim of our public men and leaders of public opinion, we must remain the most despicable and depised among the world's and the British Empire's communities, and we cannot win self-determination within the Empire and take the place that is our due among its self-governing communities and dominions. Did any of the great Irish leaders of the past—O'Connel, Butt, Parnell, Redmond or others —ever accept any office or title, however high, within the United Kingdom or even beyond its limits in any part of the Empire ? We certainly hold that there is nothing degrading to us in forming a part of this great British Empire. On the other hand, there is something honourable to Indian public men in holding a place of equality and a position of honor among the leaders who determine and control the policy and destiny of the Empire. If we win and hold such a status of honourable equality, if we are admitted to its privileges and its responsibilities, then indeed—but not till then—shall we "sit there (*i.e.,* in the League of Nations Assembly) like the members of Great Britain and fight and talk like them." Let not our present absent-minded public men mistake cant and camouflage for the fearless and outspoken proclamation of the genuine convictions welling forth from the hearts of men conscious of possessing and practising the courage of men *born free* and recognised as such everywhere by men who enjoy freedom as their birth-right and are ready to lose their lives and all for freedom's sake. 'Can the Ethiopean change his skin or the leopard his spots ?'

The Hindu Message

Dharma and Life—XXVI.

How Property is Attacked and Defended!

Industrialism and the industrial epoch commenced in the West about a century and a half back, when mechanical invention ushered in the growth of man's power and empire over his material environment. The progress of invention, the advance in the application of energy, the improvement in the means of transport together form a record of progress which borders on the miraculous, but which is so obvious and hackneyed in the telling that it need not here be dwelt upon. The result gained is that production has gone up by bounds and leaps, and throughout the West the former age of deficit and destitution has been replaced by the age of surplus and surfeit. The passage of the world from the era of handicraft to the era of machinery, and from the era of steam to that of untiring activity and effective interest in production on account of the great and growing increase of wages and profits,—all these circumstances point to a growth in productive goods and services and a growth in human movement and human intercourse which is nothing short of a stupendous miracle. And yet, we see that the world at large continues to suffer from the same misery and poverty as ever before and to work at productive industry with the same energy and for the same length of time as counted in daily working hours as ever before. No doubt the recent World-war brought about an enormous and unprecedented waste of accumulated resources and of productive power and energy through loss of life,—but, even without it, the substitution of the age of surplus for the preceding ages of deficit had not resulted in bringing in the golden age or the millennium which has long been dreamed of or hoped for by Utopian dreamers and even by reformers and philanthropists who have actively associated themselves with the conditions of human life from day to day with a view to their amelioration. The civilised world is not able to extricate itself from its tangled and chaotic wilderness of inequalities of difference and penury, the contrasts of the palace and the slum, and the growing difference between the easy non-chalance allotted to the share-proprietor and the exhausted frame and the crazy, broken spirit of the care-worn worker of today.

The blame for all these contrasts and failures is laid at the door of the institution of private property—to the social regime in which every one is allowed to find work and wages or employ his capital and gain his profits without any interference from the state or society with the working of the economic laws of supply and demand and cost of production as determining the normal or market price of commodities. Not only the economics of profits and wages, but the old doctrines of rent as the surplus of income over cost and of interest as the price of saving were vehemently attacked as the fatal and sinful offspring of the same institution. The responsibility of the old principle of legislative non-interference in domestic industry and trade and the old doctrine of free trade in foreign goods was also traced to the same source. The old economists were firm in their adhesion to the view that unrestricted competition under what was known, from the time of Adam Smith, as the "System of Natural Liberty" could alone secure even-handed justice in the economic relations between man and man. It was this citadel and rock on which was built up the "classical" economics of the past that has now been vehemently attacked and battered down. There is no such thing as a system of profits, wages or of prices which alone accords with the cost of production, no such thing as a normal or provisional phenomenon of the relation of exchange. There is no permanence in this relation, but only a chance result which is due to bargaining between the different parties to the transactions of production and exchange. Moreover, the interests and activities of the *consumer* are rarely noticed and allowed for by the old and "orthodox" school of writers on Economics. For him, the price is fixed not according to cost of production, but according to his own needs and resources. No doubt, supply and demand is a comprehensive term, but "cost of production" is vague and elusive and even puts us on the wrong track, it is manifestly wrong and misleading; and, in fact, there is no such thing as a proportion or relation, necessary and natural, between price and cost of production. It was

Caines who first pointed that while price, wages, and profits are all forms of reward the ideas of cost, work, and management are forms of sacrifice; and so there can be no relation, constant or casual between two such opposite phenomena. Moreover, there is no means of measuring cost of production. For, on every side we notice nothing but constant variations in the amount, the skill (natural or acquired), and the training required to produce commodities by different labouring men at different times and periods of life and in different occupations,—variations, also, in the amounts of time or muscular force expended by each in the performance of the work entrusted to him.—Similarly, the avalanche of criticism levelled against the old "orthodox" doctrine of rent has been irresistible and enormous. Neither the rent of land nor the price of corn is due to cost of production. Rent, high or low, is mere "unearned increment," even as high dividends and profits are,—and these latter are due to the varying conditions of production and the market for the sale of produce.

After all this has been said—and no one disputes the substantial truth and justice of the views thus propounded—it remains true also that it is only the institution of private property that ensures the *maximum amount of produce* under existing economic conditions of production and exchange. No doubt, this demand for maximum production in return for labour and capital expended in industry is responsible for a good deal of the exploitation, the war of classes, factory ill-treatment of men, women, and children, and race-injustices prevailing in the world. But the destruction of private property is sure to inflict a serious injury on the productive results of labour. The evils mentioned cannot be laid at the door of the system of distribution now in force. The system of distribution now existing in the West is due to the prevalence of the Darwinian idea that struggle and competition is the only possible law and ideal under which men can live and thrive in the world. It is the Darwinian Gospel of—"Marry, multiply, let the strongest live and the weakest die"—that is responsible for all the heartlessness that lies at the basis of conflicts of labour and capital and all the exploitation of "dependent" or "subordinate" communities or administrations that is now a disgrace to European and Christian civilisation. It is this same heartless gospel of Darwinism—a gospel which is the true basis of the religion of Christianity, so-called, now prevailing in Europe and which is propagated on the one hand, by the missionary going forth with the protecting sword of the Christian administrator or soldier and, on the other, by the efficiency for exploitation of the Christian trade organisation—that forms a source of danger to all the ancient and true religions of the world prevailing in Asia and even to the true religion of Jesus,—if it can be gathered at all from the tainted sources now available to us.

We have referred above to the system of distribution as the causal source of the evils of the prevailing economic system in Europe. We have done so, because it is what the organisation of working men in the West have chiefly in view when they force on societies and governments there the war of classes now threatening the very foundations of society. But in truth, the principle of justice however essential to the stability of the State, can never heal the wounds of the heart of man. Nor can the war of organised and regimented classes ever succeed in giving a practical turn to the search after justice and the conflict of opinion which is bound to divide men when they attempt to decide what is just in the division of the surplus after deducting the cost of production. Moreover, the State will also come in as an interested party,—interested in the division of the spoil and in its own share of the income, and interested also on account of its having to fulfil its function of peace-preservation in the land where it rules. The State will have the last word for itself, even where conciliation and arbitration boards have been brought into existence to help in reaching a settlement.

The Dharma, on the other hand, works by basing itself on the principle of love and renunciation, and by the method of integration and co-ordination of functions uniting all sections of society into one organism, and at the same time ensuring the promotion and the permanence of life by placing the final goal of human purpose and perfection in the realisation of the Atman which is beyond the life and evolution of the social organism. Professor Bertrand Russell, in the following immortal words, utters a truth which appeals to the Indian heart with irresistible force:—"In order to promote life, it is necessary to value something other than mere life. Life devoted only to life is animal, without any real human value, incapable of preserving men permanently from weariness and the feeling that all is vanity. If life is to be fully human, it must serve some end which seems, in some sense, outside human life, some end which is impersonal and above man-

kind, such as God, or truth, or beauty. Those who best promote life do not have life for their purpose. They aim rather at what seems like a gradual incarnation, a bringing into our human existence of something eternal, something that appears to human imagination to live in a heaven remote from strife and failure and the devouring jaws of Time. Contact with the eternal world—even if it be a world of our imagining—brings a strength and a fundamental peace which cannot be wholly destroyed by the struggles and apparent failures of our temporal life." Human life in India, in accordance with these valuable thoughts and truths, always aims at the freedom and the perfection of the human spirit as the goal of life, and therefore at something which is beyond all the limitations of the world of Samsara, whether in this life or in the life of Elysian enjoyments in Svarga or elsewhere. Further, the co-ordination and integration of the divisions or classes in human society through the distribution of functions among them is to be achieved by the abolition of all competition and by each *confining itself to its own Svadharma*, according to the requirement of the Gita. Thus, the much-abused separation of Varnas is intended to achieve the organismal unity of human society. The Brahmin, the Kshatriya, the Vaisya and the Sudra has each his own special functions allotted to him, and must not encroach upon another's in the normal life-conditions of society. The renunciation of all other kinds of activity is the essential condition on which alone the principle of Svadharma can become actualised in the practice of life. Social unity and co-operation is gained through contented and peaceful resignation and abstention from the multiplication of wants which is regarded as the sole and sufficient basis of modern and Western civilisation. The ideal of competitive strife—of struggle for existence and survival of the fittest—is one opposed as the poles to the Indian ideal of peaceful co-operation and unity among all men and groups of men. The true and ancient system of *Chatur-Varnya* could only prevail among a people where the religion of the Vedanta and the joint family system are both active, and people find the higher life of resignation and the practice of charity alone make for the achievement of the higher life of man as distinguished from the grovelling of the ordinary man in the gross and engrossing pleasures of the senses. Such new life and ideals can only become possible if we follow the teachings of our ancient Rishis in regarding the "*Four disciplines*" (*Sadhana-chatushtaya*) as the preliminaries for reaching the goal of life. This higher life and these higher ideals can only become possible for man if he can keep himself above want and does not become the sport of constantly-changing circumstances. The Dharma defends property when it is limited to what is gained by Svadharma, and wants are *not* multiplied for their own sake,—when all men help each other to promote loving sympathy and brotherhood in the race and prevent the strife and competition which in the end serve only to conspire to convert men into a pack of hounds and wolves ready to tear each other to pieces in the attempt of each to satisfy its own hunger and want.

Svadharma, by bringing about peace and unity and Co-operation among men and by placing the goal of life in the attainment of the lotus-feet of God, makes for loving peace and brotherhood among men. It promotes the higher life of the spirit when all practise Svadharma without *Kama* (desire for fruit.) Desire for the gains or wages of work becomes absorbing when the fear of comparative displacement from rival industrial groups produces uncertainty in regard to the future and the resulting trepidation of the heart. But, when the industrial groups are non-competing as they must be under the principles and working of Svadharma each industrial group becomes a *hereditary varna* and an organised collection of families each having its assured place from generation to generation and observing the rules and conventions established in each industrial group for the taking and training of apprentices each of whom becomes a master and skilled professional in his own good time and turn. The life of man from childhood to adolescence and from adolescent and hardy manhood to the status of a veteran who feels his task done and awaits his divine master's call to lasting peace and bliss is filled at every stage with the consciousness of worth gained and duties done to the satisfaction of God and man and, above all, the approval of one's own enlightened conscience.

How different is all this from the defence of property in land or of the owning of shares in an industrial concern by Capitalists on the ground that every one is entitled to all that he needs or acquires for the expression and finding of his status in life as a respectable member of society and useful citizen of the state. So long as such is the basic idea and purpose of social and state organisation, no power on earth can resist the continued war of classes that has been going on and constitutes a perpetual menace to the world's peace and to civilisation itself.

Social and Religious.

Pandit Malaviya and Hindu Dharma.

By N. K. VENKATESAN M.A., L.T.

We have come to recognise that Pandit Malaviya is one of the most forward men in modern India and yet is able to keep up his orthodoxy fairly unsullied. It was only a few days ago that we read that the learned Pandit and the most forward congressman perhaps, while not feeling sorry for his son's going to Jail for his convictions, right or wrong, merly asked him to go through a *prayaschitta* according to the Hindu Shastras and again, when there was need for another *prayaschitta* for a later action of his son against the formal code of the Hindu Shastras, asked him to undergo another *prayaschitta.* If the son understands the father, he must honour his learned father for the manner in which he honours the Hindu Shastra of the ancient Rishis, while he or his son has not a bit wavered in his enthusiasm for the cause of the country in the political field. It is their way of looking at politics, that we have to learn, in order that we may be true Hindus and true patriots in India. Pandit Malaviya's life is generally taken as an example by the orthodox Hindus to show the possibility of an orthodox Hindu being a forward political thinker and worker for the cause of mother India. If the Editor of the 'Hindu' or of the 'Swarajya' has learnt to understand this standpoint of the orthodox Hindu of the present day, neither would have made the pitiable blunder of misinterpreting the words of Pandit Malaviya at the Hindu Sabha meeting held recently at Gaya. The Editor of the 'Hindu' in his editorial columns on the New Year's Day says:—'The Pandit's remark that the Hindus have degenerated more than any other community in the land due to the neglect of Dharma is a frank and simple statement of fact which will be appreciated and endorsed on honest introspection by all who do not want to deceive themselves and their community by self-delusion and flattery.' What a self-complacent and happy remark this! and yet this remark is based on one sentence of the Pandit, without taking into consideration the spirit of the speech or even the latter part of the Pandit's speech. It must be remembered that the Pandit was speaking as a *Hindu* of the orthodox type, to a *Hindu* sabha, intended for the purpose of considering certain national problems of urgent importance from the orthodox *Hindu* point of view. On a perusal of the speech of the Pandit, a 'Fourth form boy' could see that the Pandit did not at all say that the Hindu community had become degenerate in the sense that the Hindu Dharma should be overhauled as a social reformer desires it to be done. The Pandit as an orthodox Hindu, points out to the assembled Hindus how they should look at certain national problems from the orthodox Hindu point of view. The Editor of the 'Hindu' has consciously or unconsciously done much mischief by basing an easy remark on a sentence of the Pandit, taken out of its bearing and context. This is how our editor can misrepresent the orthodox view of National problems. In the 'Swarajya' of 2nd January, we have an instance of the way in which the reporter can misrepresent a man and his views. The Associated Press special message to the 'Swarajya' says that the 'decisions' of the Hindu Sabha, 'to remove untouchability and take back to Hinduism Malabar Hindus converted to Islam show that *orthodoxy is yielding.*' This is the logical inference of the reporter. In fact what the Pandit actually said at the meeting has been thus reported in the same paper 'Swarajya' in its supplement of December 31—1922.

(1) 'Hindu Dharma told them to respect other religions, to be tolerant, never to be aggressive, but it also enjoined upon them not to hesitate for a moment to lay down their lives if their Dharma was attacked. In the observance of this Dharma alone to its very letter and spirit lay the true solution of the problem of *Hindu-Moslem Unity.*' Then the Pandit explains this at length and no orthodox Hindu can find fault with the Pandit's viewpoint. He holds in short that in the feeling of strong attachment to his own Dharma in the Hindu and in the Mahommedan, the possibility of the Union between the two great communities of India lies.

(2) 'Pandit Malaviya appealed for the removal of *Untouchability* by feeling love for the untouchables and lifting them. He did nor force them to eat with them or to intermarry, but *to recognise them as one of them and to love them and improve their position* and not let them fall a prey to other religions which were converting them.' This is exactly always the orthodox Hindu point of view and no one takes or can take exception to the Pandit's statement. I do not know where the suggestion lies here of orthodoxy having been rigid at one time and 'yielding' now as the reporter slyly suggests. If there is anything in the world which is perhaps most rigid, it is orthodox Hinduism. The problem of untouchability and the suggested solution of its removal are both merely the creations of interested people who have their own stakes on the board. The orthodox Hindu has now merly to reckon with the evil aud set it right by concerted action. That is all that the learned Pandit says to the assembled Hindus in the Mahasabha.

3. As for the problem of the admission into Hinduism of the *Malabor Hindus,* exploited upon by certain people again, no orthodox Hindu thinks that they were converted at all into another religion. So the question of their admission into the Hindu fold does not arise at all. They were Hindus and they are Hindus even now. I do not know how orthodoxy 'yields' in this matter as the 'Swarajya' reporter says. It does not require Pandit Malaviya to say this simple matter.

And yet such misrepresentations are made about orthodox Hinduism by so-called modern thinking men, as if orthodox Hindus in India have bidden adieu to thinking and feeling and so do not deserve to be called patriots, as long as they remain *orthodox. Is this so* ?

Legal.

The Religious Endowments Bill.

By S. MAHALINGA AIYAR B. A. B. L.

The Cypres doctrine:—its legal aspect.

In the explanations to the clauses appended to the Bill it has been stated that clause 33 of the Bill which empowers courts to permit the diversion of trust funds to secular purposes is based upon the well-known doctrine of *cypres* which courts ordinarily apply in the case of charitable trusts. The use of a technical term known only to lawyers is liable to mislead the lay public. It will be therefore useful to examine the exact legal significance and application of the so-called *cypres* doctrine. Justice Mukherjee in a recent case (in 25 Calcutta Weekly Notes page 343 at p 353) defines it as the principle that '*where a general intentian of charity is manifest,* but the particular object of the bounty of the founder cannot be carried out literally, it must be carried into effect *as nearly as possible* (cypres), a doctrine which has been applied not only to protect charitable trusts at their birth, but also to save them from an untimely end.' Another eminent judge, Jessel, Master of the Rolls, explains the doctrine thus: 'Where from lapse of time or change of circumstances it is no longer possible beneficially to apply the property left by the donor or founder in the exact way in which he has directed it to be applied, it can be applied to *similar purposes* by different means.'

The *cypres* doctrine had its origin in the general principle upon which courts of Equity in England acted viz. that charitable trusts should be favoured and accorded a special treatment. If in a will, the testator has made a disposition in favour of a private

individual or for a secular object the courts will construe the disposition strictly, and if the disposition fails or cannot take effect for any reason, the property so disposed of will fall into the residue, and the heirs entitled will succeed as upon intestacy. But where the disposition is in favour of a charity and a general intention also is expressed by the testator that the property should go to a charity in any case, the courts will apply the *cypres* doctrine. Upon the same principle is based the Rule in Equity that 'a court of Equity never wants a trustee'; That is, Equity will not allow a charity to become extinct for want of a trustee. Where a man dies and leaves properties but no heirs, the property will become escheat to Government. But where properties are bequeathed to a charity, and the appointed trustee dies, or is under a disability or refuses to act, the court will not allow the charity to become extinct but will appoint a new trustee to carry it on.

But the courts could go only so far in favouring charities. There is a fundamental principle which courts are absolutely bound to respect viz., that the will or intention of the testator in regard to *his property* should be regarded as paramount. As during the life of the owner his will in regard to his property is paramount i.e he has the absolute right to use or dispose of it as he pleases, so after his death, his disposition of his property should be absolutely respected. Neither another individual nor the court can interfere with that disposition. The courts cannot carry their partiality to charities so far as to disregard the fundamental principle of property. So the courts will not apply the *cypres* doctrine in furtherance of their desire to favour charities, unless, to begin with, there is an 'over-riding charitable intention' (In re White's charities). As Lord Eldson has said in a House of Lords case (Morggridge Vs Thackwell) 'First, the court *has not the power* to make a will for the testator, but only to carry into execution that which he has made for himself; secondly, to give effect to a bequest in favour of charity the court will, if no executor has been appointed or if the executor has died in the lifetime of the testator supply the place of the executor, and carry into effect that which, in *the case of individuals must have failed altogether*; thirdly, in all cases in which the testator has expressed an intention to give to charitable purposes and if that intention is declared absolutely and nothing is left uncertain but the mode in which it is to be carried into effect the intention will be carried into execution by the court which will then *supply the mode which alone was deficient*' '*Where a clear charitable intention appears*, it will not be permitted to fail, if it cannot take effect in a specified mode, but the law will substitute *another mode* (*cypres*,) that is, as near as possible to the mode specified by the donor' (Halsbury Laws of England, IV, p. 190). Again, the *cypres* doctrine has been applied only to dispositions in wills, and not to deeds. This application 'is an offshoot of that general system of indulgence and laxity of construction, as respects wills, which has long obtained in our courts both of Law and Equity which has not been suffered to have place in regard to the interpretation of and giving effect to instruments *inter vivos*.' (Justice Mukherjee in 25 C. W. N. 343). And the *cypres* doctrine is applied only in the case of charitable trusts. 'On failure of a gift which is *not charitable* the *cypres* doctrine is not applicable.' For example 'the unexpended funds of a non-charitable society pass to the Crown as *bona vacantia*' (Halsbury).

There are other limitations in the application of the doctrine. No application of the doctrine is possible "where the original trusts are capable of being carried into effect, *but remain unsatisfied*, or where the original trusts are still subsisting.' 'Where the original intention is capable of taking effect the court has no *authority to vary it* and *to apply the charity estates* in a manner which the court may surmise that the founder would himself have contemplated could he have foreseen the changes which have taken place by lapse of time.' (Halsbury). In a Madras case, in 55 Indian cases p. 661, the appellants contended that a certain choultry was intended (according to the will in question in the case) solely for the Maharajis, or descendants of Vallabacharya, who held the position of priests, when they came to Madras. The respondents contended that the Maharajis were a small number and only occasionally came to Madras, and, that the building might be occupied by all followers of Vallabha sect including Bhatias, Marwaris, Guzerathi Vysias, though the Maharajis might be entitled to preferential treatment. The court in refusing to apply the *cypres* doctrine, said 'If the founders intended that the building should be solely used by the Maharajis, whenever they chose to come here, *it is not for us to say that the building should be used for other purposes*, when the priests do not occupy it.'

Thus it will be seen that the courts cannot, by themselves, create or direct a charitable disposition, but, *where there is already a validly created charitable trust*, they can vary the mode where a specified mode has failed by finding similar purposes, or supply the machinery where there has been a breakdown of the machinery required to carry it out. Even here, there are some limitations. It has been held 'that gifts for the relief of *physical destitution* cannot be applied to educational purposes; that a gift to build and endow almshouses cannot be applied to build a hospital; and a gift intended for the reclamation of vagrants cannot be diverted to the relief of destitute persons' (Halsbury Vol IV, p 197). Nor, lastly, can the *cypres* doctrine be so applied as to relieve the rates; that is the courts should not select such objects the expenditure on which should ordinarily be met from Municipal revenues (Halsbury).

It will now be seen that the provision in clause 33 of the Bill is as near to the *cypres* doctrine as the North Pole to the South Pole.

1. The doctrine *cypres* is applied to charitable trusts. The Bill seeks to apply it to *Religious* trusts.

2. The *cypres* doctrine owes its origin to the desire, under strict limitations, to favour and perpetuate charities, by applying to charitable trusts considerations which are not applied to secular dispositions. The Bill seeks to penalise Religious Trusts by confiscating their funds for diversion to secular purposes.

3. The *cypres* doctrine does not enable the court to act in disregard of the fundamental right of property by ignoring the donor or founder, or overruling his dispositions. The Bill enables the court to assume absolute proprietorship over Endowed Funds and vests in it power to direct, at its discretion, their application to any 'object of public utility.'

4. The *cypres* doctrine is applied under many restrictions; it is confined to charitable dispositions in wills; there are restrictions in the choice of similar objects etc. The Bill confers on the court indefinite and unrestricted powers of confiscation and diversion over all Religious Endowments.

5. The *cypres* doctrine cannot be applied so as to relieve the rates. Clause 33 of the Bill is framed with the sole and avowed object of aiding the Municipal Revenues.

6. The *cypres* doctrine cannot be applied where the object of the original foundation still subsists,

and can absorb all the endowed funds. But the Bill proceeds upon no such principle; but makes the wide provision that the court can direct the application of incomes from Endowments—not the 'surplus incomes', be it noted, to education, medical relief, sanitation or any other object of public utility. It is inconceivable how there can be a surplus after providing for all possible services calculated to preserve and promote the Hindu Religion with its variety of creeds, worships and cultures.

In fact, the power proposed to be vested in courts under clause 33 is a very extraordinary one, unprecedented in civilized systems of law. Courts can only find, declare and enforce rights already existing or acquired; such as personal proprietory or contractual rights, or righ's conferred by law. But courts cannot create proprietory rights or deprive a person of his proprietory rights: nor can they prescribe uses to property without reference to the wishes of its owner. The Legislature alone can, under defined principles of general operation, take away the property of the citizen in the form of taxation, for the uses of the State. But the Bill, in effect, empowers courts to find resources for public expenses by making levies upon Religious Endowments—not all Religious Endowments, but *only Hindu* Religious Endowments. The startling novelty of the provision will be apparent if, in regard to the land tax or income tax, the courts are empowered to make levies—proper and proportionate levies to be determined of course, after the exercise of 'Judicial discretion'—upon the surplus incomes of persons owning large estates or properties like big Zemindars, Mirasdars or Merchants. Such a provision will enable the State to fill its Exchequer with large lump levies instead of by small doles, and, in addition, will provide a delightful variety in the gradation of taxation—for will not the 'discretions' of Judges be as varied as their faces? There are some people who, thinking of the misuse or misappropriation of endowed funds here and there, judge hastily and lose sight of the fact that the diversion clause of the Bill sets at naught the sanctity of property, and what is worse, of trust property. If there is illegal misappropriation for private uses or mismanagement, that is a ground for providing for right appropriation and proper management, but not for legalised misappropriation for public uses. To those who are prepared to accept the diversion clause of the Bill, I can only say that they must be prepared to receive with equanimity a Bill like the following:—

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Whereas the Government has, after trying all possible means, been unable to balance its revenue with its expenditure for several years past; whereas the Government has been obliged to contract enormous loans in recent years for public purposes; whereas the proceeds of all such loans have been wholly devoted to the securing of peace and promoting the welfare of the people in all directions; whereas the vast majority of holders of Government Securities are believed to be rich or well-to-do persons, whose 'stake' in the country the Government have always specially recognised and protected; And whereas there has been established, since the introduction of the Reforms, an absolute identity of interests between the Governors and the governed; and whereas it is of advantage to all the parties concerned to begin anew with a clean slate; It is hereby enacted as follows:—'No person shall have any claim against Government for any amount, Principal or interest, by reason of the fact that he is a holder of Securities in respect of Government loans contracted since 1914, and all such securities shall be null and void and of no effect whatsoever from this date: Provided that the court can always exempt from the operation of this statute those persons who are proved to be solely dependent for their livelihood, upon the receipt of interest from such securities.'

Miscellaneous.

The League of Nations.

3—The Work of the League.

(THE PUBLICITY BUREAU, MADRAS).

How stupendous was the task which confronted the League of Nations at the outset of its career may be judged by contrasting the new ideals with the principles which had become firmly established. To the principle of Nationality which was based upon the absolute sovereignty of States and took self-interest for its leading motive was opposed the ideal of internationlism whereby the States agreed to surrender a portion of their sovereign power to the extent of undertaking certain obligations towards one another and to subordinate their own self-interest to the good of the world by submitting themselves to the world's judgment. To the competition in armaments, dictated by the primary instinct of self-preservation, was opposed the principle of non-aggression whereby the nations could reduce their warlike equipment to the point necessary for national safety alone. The old idea of the sword of war as the final arbiter had to be displaced by the new idea of the sword of justice which should settle national differences by the judgment of the world. And finally the conception that the less advanced places of the earth were appointed for exploitation by more progressive peoples, whether their skin was white or brown or yellow and more specially that Africa was intended to be developed for the personal or national gain of the white man had to be overcome by the newer conception that such primitive parts should be governed, protected and developed primarily in the interests of their inhabitants.

At the bottom of these four cardinal principles lay the horror of war and the desire to substitute some more rational settlement for disputes. The ideas were for the most part the evolution of earlier dreams but the advance of the democratic system and the expansion of colonial adventure, alike by Europe, by Asia and by America had necessitated new methods and a new point of view. At most only a compromise could be hoped for; only by successive steps and by slow degrees could the nations by expected to modify their long accustomed attitude. It very soon became apparent that unless the various States would agree to surrender more of their sovereignty than any one of them was disposed to do the work of the League must often be rendered abortive for, as has been said,

> "The League is a League of Nations and of nations represented by Governments. It can only function at all as the Governments agree to act in common and they can only be persuaded not compelled. Where the Governments agree the League machinery has shown itself abundantly adequate to carry their common policy into effect. Where they fail to agree the League comes near to be paralysed."

In dealing with armaments the League was faced by the fact that it was very far from embracing all the nations of the earth. The ideal was a community of nations working together for the peace of the world; the naked facts were that neither Germany,

Russia nor America nor (as representing the hopes of Islam) Turkey was included in it and that the unstable world had not yet attained to confidence in its ideals. The newly formed States were trembling for their precarious existence. There was open war between Greece and Turkey which sent sympathetic thrills throughout Islam. And with this was bound up, not indeed the desire for war, but the persistent feeling that war was after all the only remedy. Of colonial adventure and the new conception of the Mandatory system more will be said in its proper place. It is sufficient to say here that even amongst thoughtful and educated men it is as yet only dimly understood and that the common charge against it, that it is only veiled annexation, is due partly to this misunderstanding of the ideal and partly to the impatience of the accusers.

This rather lengthy preface is necessary to a right understanding of the work of the League, because unless the magnitude of the task and its difficulties are realised, its achievements cannot be seen in their proper light. Impatient critics who look upon the League as a futile and ineffective body fail to take into account that it is armed only with power to recommend and not with authority to command, that its work is to be measured less by the thing done than by the progress of nations in their willingness to cooperate to a desired end. And just as the Indian National Congress brought together many races and many tongues for an exchange of views, so the gathering of the nations in the Assembly of the League has enabled the men of many nations to understand one another better and in the sphere of those ideas of right conduct which are common to all civilised men to coordinate their action more quickly than would have been possible after months of the older diplomacy by means of despatches and Ambassadors.

Thus if it be granted that the primary function of the League is to alter the outlook of nations towards one another and towards established institutions, considerable progress has already been made. Let us now turn to the more concrete history of its work. Much of this is prepared for the Assembly or the Council as the case may be by Commissions of three kinds :—

1. Those expressly set up by the Covenant.
2. Those appointed by the League for the study of general questions.
3. Those similarly appointed for specific matters.

There are two commissions set up by the Covenant, the Permanent Mandates Commission established by Art 22 and the Armaments Commission established by Art. 9. The Mandatory system will be discussed at length in a later paper; as we are here only dealing with the work of the League it is sufficient to note that owing to the action of the League and the Permanent Commission the system is now working and the danger of disputes over the "spoils of War" has thus been avoided. Steps have been taken to secure to the League some measure of control over the administration of Mandate territories.

On the other hand substantial progress in disarmament has been retarded by the facts already mentioned, the incomplete character of the League at present and the general unrest in the world. To assist the work of the Permanent Commission the League appointed a Temporary Mixed Commission consisting not only of experts in war but also of representatives of economics, politics and labour, and this Commission presented a report which showed some progress in the collection of evidence and was able to announce the acceptance by certain States of the recommendation to limit temporarily their budget expenditure on armaments. There is however no subject which depends so vitally upon the policy of the national governments and upon a general agreement among them; it can hardly be expected that this important question can be decided immediately.

The League sets up Commissions from time to time which may be permanent or temporary according to the work allotted to them. They may have to deal with wide questions or with special subjects referred to the League. Those set up by the First Assembly were six in number :—

1. Legal and Constitutional questions.
2. Technical Organizations.
3. Blockade and Armaments.
4. League Organisation.
5. Humanitarian Questions.
6. Political Questions.

Of these, Commission 2 dealt with Finance and Economics and Commission 5 with such matters as the Traffic in Women and Children and Opium control. Public Health on the other hand is considered of such vital importance that a special Permanent Committee of nine with a medical Secretary and staff attached has been set up with instructions to meet four times a year.

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To be continued.

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Address..

Date...

Received on ______ by ______ the Office or the Bank by whom Received. (*to be filled in by the Receiver.*)

APPLICATION DEPOSIT RECEIPT.

THE SRI VANI VILAS SYNDICATE LIMITED.

Place________________

No__________ Date________________

Received of Mr.______________________________ of____________ the sum of Rs.__________________ being a deposit upon________ shares of $\frac{\text{Rs. 50 each}}{\text{Rs. 10 each}}$ in the above named Company applied for on the________ day of____________ 192

____

Rs.

Signature of the Receiver.

N. B.—This receipt must be preserved carefully to be exchanged hereafter for share certificate.

Payment by cheque to be subject to its realisation.